

4-23-07

Docket No.
251305/0028
SBP:AEW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: David Zhang, et al.

Group Art Unit: 1634

Application No.: 09/978,261

Examiner: Frank Lu

Filed: October 15, 2001

For: NUCLEIC ACID AMPLIFICATION METHODS

Date: April 23, 2007

REQUEST FOR REFUND
(37 C.F.R. § 1.26)

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

For the reasons set forth below, Applicants respectfully request a refund in the amount of \$1,370.00 for a duplicative Petition for Unintentionally Delayed Claim (the "Petition") fee deducted by the Director on January 30, 2007, from the undersigned's Deposit Account No. 19-4709 in connection with the subject application.

This request is made pursuant to 37 C.F.R. § 1.26, and is being submitted within two years of the payment of the fee for which a refund is now sought. In accordance with 37 C.F.R. § 1.26(b) a copy of the Deposit Account Statement for the period in question, January 2007, indicating the disputed charge (January 30) is annexed as Exhibit A. A copy of the original Fee Transmittal submitted with the Petition is annexed as Exhibit B.

Applicants will now explain why the fee in question was in error.

On January 25, 2007, Applicants filed a Petition for an Unintentionally Delayed Claim in connection with the subject application by Express Mail, using the Certificate of Mailing procedure specified in 37 C.F.R. § 1.10. The Petition authorized the Director to charge the \$1,370 fee to Deposit Account No. 19-4709.

On January 30, 2007, two deductions in the amount of \$1,370 were made from the above-specified Deposit Account. The attached Deposit Account Statement lists the fee code for both of those deductions as "1454", the code for the Petition. Both of these deductions appears on page 3 of the Deposit Account Statement.

Thus, Applicants were erroneously charged twice for a single Petition. Applicants therefore respectfully request a refund in the amount of \$1,370.00, this being the amount of the erroneously-charged second Petition fee.

Please credit this \$1,370.00 refund to the undersigned's deposit account no. 19-4709 and send confirmation of the same to Applicants' undersigned attorney.

If there are any questions, please kindly contact Applicants' undersigned attorney at the address below.

Respectfully submitted,

/Steven B Pokotilow/

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For: **NUCLEIC ACID AMPLIFICATION METHODS**

Date: **January 25, 2007**



Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR AN UNINTENTIONALLY DELAYED CLAIM
UNDER 37 CFR § 1.78(a)(3)

Sir:

Pursuant to 37 CFR § 1.78(a)(3) and MPEP § 201.11 subsection V, Applicants respectfully petition to claim benefit to prior filed applications under 35 U.S.C. § 120. By filing this Petition along with the required fee Applicants respectfully submit that the subject Application Serial Number 09/978,261 (the "'261 Application") is entitled to claim priority to the prior-filed applications identified in the Amendment to the Specification on page 2 of this paper. This Petition is supported by the Declaration of Amy Wilson (cited as "Wilson Dec."). Accordingly, Applicants respectfully request that this Petition be granted.

Amendments to the Specification begin on page 2 of this paper.

Remarks begin on page 3 of this paper.

Adjustment date: 05/04/2007 SFELEKE1
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